IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 1.3.2007

CORAM

THE HON'BLE MR.JUSTICE P.D. DINAKARAN

Civil Miscellaneous Appeal No.2416 of 2006

The Tamilnadu State Transport Corporation
Limited (Coimbatore Division II)
Chennimalai Road, Erode
rep. by its Managing Director. .. Appellant

Vs.

1. Y.Ranganathan

2. Kumar

3. National Insurance Co. Ltd.
No.66, Perundurai Road
Erode 638 011. .. Respondents

Appeal filed under Section 173 MV Act 1988 against the award and Decreetal order dated 18.8.2005 made in MCOP No.38 of 2005 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Erode.

For Appellant : Mr.A. Babu
For Respondent-1 : Mr.A.K.Kumarasamy
For Respondent-2 : Given up
For Respondent-3 : Not ready in notice

J U D G M E N T

The above appeal is directed against order dated 18.8.2005 made in MCOP No.38 of 2005 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Erode.

2. On 30.8.2001, at about 9.30 am, one Sivakumar was driving a Maruti van belonging to the first respondent bearing registration No.PY-01-E-4039 in Gobi-Kolappanu Road. At that time, the appellant Corporation bus bearing registration NO.TN-33-N-0798, which was coming in the opposite direction, dashed the Maruti van in the front side, due to which, the van got damaged and the driver also sustained injuries. The first respondent claimed a sum of

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Rs.1,04,000/- towards compensation for the damages of the vehicle.

3. On the side of the first respondent, P.W.1 - first respondent, P.W.2 - driver of the Maruti Van, P.W.3 - Supervisor of Krishna Automobiles, were examined and Exs.P1 to P5 - receipts for payment towards repair of the vehicle, Ex.P6 - receipt for payment of surveyor charges, Ex.P7 - FIR copy, Ex.P8 - copy of report of the Motor Vehicle Inspector were marked. On the side of defence, the driver of the appellant Corporation examined himself as R.W.1 and marked a copy of the judgment made in C.C.No.9 of 2002 on the file of Special Judicial Magistrate, Gobichettipalayam, as Ex.R2.

4. The Tribunal, after analysing the evidence on record, awarded a sum of Rs.1,00,000/- with interest at 7.5% per annum.

5. Questioning the award of the Tribunal, the appellant has filed the above appeal on the ground that the Tribunal had erred in awarding compensation under the head of repair charges and cost of body.

6. I have given careful consideration to the submissions of both sides and perused the order of the Tribunal.

7. The driver of the Maruti Van, P.W.2 had deposed that the driver of the appellant Corporation bus was driving the vehicle very rashly and negligently and without noticing the Maruti van, he dashed against it on the front side, after overtaking a lorry. The driver of the appellant Corporation bus, R.W.1, had stated that the driver of the Maruti van, while overtaking a vehicle carrying hay, dashed the bus on the right side and therefore, he alone was responsible for the accident. However, he had not lodged any complaint about the accident. But, P.W.2, driver of the Maruti van had lodged a complaint. There is no explanation on the part of R.W.1 for not lodging a complaint. Even though a copy of the judgment made in C.C.No.9 of 2002 acquitting the driver of the appellant Corporation bus giving benefit of doubt was marked, no other evidence was let in by R.W.1 to support his case. Further, he had not taken any action to lodge a complaint through his department. On the other hand, on going through the evidence of P.W.2, it is made clear that the accident had occurred only due to the rash and negligent driving of the driver of the appellant Corporation bus. Therefore, I am of the opinion that the Tribunal has not erred in holding that the driver of the appellant Corporation bus alone was responsible for the accident.

8. That apart, as per Ex.P8, report of the Motor Vehicle Inspector, the vehicle was damaged. The first respondent has paid a sum of Rs.50,000/- to Krishna Automobiles, Erode for repairing the said vehicle, as per Exs.P2 to P4. The first respondent had purchased a Maruti Van Body Cell Assembly for a sum of Rs.50,000/-,

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as per Ex.P5. Therefore, the Tribunal has awarded the said amount, since the same were supported with documents and no objection was raised by the appellant Corporation.

9. Accordingly, the award of the Tribunal does not require interference by this Court. Finding no merit in the appeal, the same stands dismissed. Consequently, CMP No.9275 of 2006 is also dismissed. No costs.
Kpl

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Chief Judicial Magistrate
Motor Accident Claims Tribunal
Erode.

2. The Section Officer, VR Section, High Court, Madras

+ one cc to Mr. A. Babu, Advocate sr no. 12514
+ one cc to Mr. A.K. Kumarasamy,Advocate sr no. 12452

JRG(CO)
NM(17.03.07)

CMA No.2416 of 2006.

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